

814.95 BUDGET DISPUTE BETWEEN BOARD OF EDUCATION AND BOARD
OF COUNTY COMMISSIONERS.

*(This document has an attachment: Verdict Sheet. Directions for
accessing the attachment appear at the end of this document.)*

The [state number] issue reads:

“What amount of money is legally necessary from all sources and
what amount of money is legally necessary from the board of county
commissioners in order to maintain a system of free public schools as
defined by state law and State Board of Education policy?”

For your convenience in analyzing the evidence I have separated
this one issue into subparts on the verdict sheet for your consideration,
as follows:¹

1. What amount of money is legally necessary from all sources in
order to maintain a system of free public schools as defined by
state of law and State Board of Education policy?
 - a) Current operating expenses: \$
 - b) Capital outlay: \$
2. What amount of money is legally necessary from the (name
county) Board of County Commissioners in order to maintain a
system of free public schools as defined by state law and State
Board of Education policy?
 - a) Current operating expenses: \$
 - b) Capital outlay: \$
3. What amount of money has been appropriated by the (name
county) Board of County Commissioners to maintain the (name
county) schools?
 - a) Current operating expenses: \$

b) Capital outlay: \$

4. What additional amount of money, if any, beyond the amount already appropriated by the (name county) Board of County Commissioners, is legally necessary from the Board of County Commissioners in order to maintain a system of free public schools as defined by state law and State Board of Education policy?

a) Current operating expenses: \$

b) Capital outlay: \$

Your answers to these subparts of the issue will constitute your verdict in this civil action.

I now will discuss the issue and explain the law which you should consider as you deliberate upon your verdict.

The issue to be decided by you, the jury, is as follows:

“What amount of money is legally necessary from all sources and what amount of money is legally necessary from the board of county commissioners in order to maintain a system of free public schools as defined by state law and State Board of Education policy?”

The burden of proof on this issue is on the plaintiff [*name local Board of Education*]. The plaintiff must prove by the greater weight of the evidence the amount of money necessary to maintain a system of free public schools for [*name county*] County. I instruct you that “maintain” means to keep in good condition or operation; to support or provide for.²

In this case the plaintiff [*name local Board of Education*] contends, and the defendant [*name Board of County Commissioners*] denies, that it needs additional money from the Board of County Commissioners in fiscal year [*identify school year*] for its current operating expenses needs and

also for its capital outlay needs. Capital outlay consists of funds for facilities and capital improvements.

[NOTE WELL: The full definition of capital outlay is set forth in N.C. Gen. Stat. § 115C-426(f) and may be used as needed.]

Current operating expenses include funds other than those used for facilities and capital improvements.³

Therefore, you the jury will make separate determinations as to current operating expenses and as to capital outlay.

North Carolina law requires the Board of County Commissioners to provide that appropriation legally necessary to support a system of free public schools, as defined by state law and the policies of the North Carolina State Board of Education.⁴ In determining the amount that is legally necessary, you must first consider the educational goals and policies of both the State and the *[name local Board of Education]*,⁵ the budgetary request of the *[name local Board of Education]*, and the financial resources and the fiscal policies of the *[name county Board of Commissioners]* and the *[name local Board of Education]*.⁶

It is the policy of the State of North Carolina to create a public school system that ensures a quality education for every child in North Carolina,⁷ and that graduates good citizens with the skills demanded in the market-place and necessary to cope with contemporary society, using State, local and other funds in the most cost-effective manner.⁸

It is the law of the State of North Carolina that the facilities requirements for a public school system shall be met by county governments.⁹ North Carolina law imposes on local boards of education the statutory duty to provide an adequate school system,¹⁰ with

adequate school buildings equipped with suitable school furniture, apparatus and supplies, and it shall be the duty of boards of county commissioners to provide funds for the same.¹¹

North Carolina law also explicitly contemplates the funding of current operating expenses by county commissions when state funding is insufficient.¹²

I instruct you that education is a governmental function so fundamental in this state that our North Carolina Constitution contains a separate article entitled "Education." The constitutional provisions were intended to establish a system of public education adequate to the needs of a great and progressive people, affording school facilities of recognized and ever-increasing merit to all the children of the state.¹³

The North Carolina Constitution provides every child the constitutional right to the opportunity for a sound basic education.¹⁴ For purposes of our constitution, a sound basic education is one that will provide the student with at least: (1) sufficient ability to read, write and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; (2) sufficient fundamental knowledge of geography, history and basic economic and political systems to enable the student to make informed choices regarding issues that affect the student personally or affect the community, state and nation; (3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and (4) sufficient academic and social skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society.¹⁵

NOTE WELL: The State Board of Education policy is constantly in flux. Reference will need to be made to

the State Board of Education policy relevant at the time of the lawsuit. The parties may stipulate as to what the relevant State Board of Education policy is. If they do not, the court may need to conduct a pretrial hearing as to what is the State Board of Education policy.

For purposes of this lawsuit, the State Board of Education policy provides (*insert State Board of Education policy relevant to the time of this lawsuit regarding the student performance levels necessary to obtain a sound basic education*).

The constitution mandates that the General Assembly “provide by taxation or otherwise for a general and uniform system of free public schools”¹⁶ and provides that the General Assembly “may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate.”¹⁷ The constitution also provides that state revenues “shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.”¹⁸ The General Assembly then assigned to local school boards, “in order to safeguard the investment made in public schools,” the duty to “keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use.”¹⁹ The General Assembly further legislated that “[a] local board of education shall institute all actions, suits, or proceedings against officers, persons, or corporations or other sureties for the application of all money or property which may be due to or should be applied to the support and maintenance of the schools.”²⁰ I instruct you that the plaintiff [*name local Board of Education*] is acting as an arm of the State and is pursuing a governmental function in bringing this civil action, or suit, to obtain funds to operate the public schools of [*name County*].²¹

Finally, as to this issue on which the plaintiff has the burden of proof, you must find, by the greater weight of the evidence, the amount of money legally necessary from all sources to maintain a system of free public schools for [*name County*]. You will make these findings both as to current operating expenses and as to capital outlay. When you have determined those amounts, you will write those amounts on the verdict sheet in the appropriate space provided.

You will then determine what additional amounts of money, if any, beyond the amount already appropriated by the Board of County Commissioners is legally necessary from the Board of County Commissioners in order to maintain a system of free public schools in [*name County*] as defined by State law and State Board of Education Policy. You will make this finding both as to current operating expenses and as to capital outlay. When you have determined those amounts, you will write those amounts on the verdict sheet in the appropriate space provided.

NOTE WELL: The trial court also may consider giving the jury calculation worksheet, similar to the below, along with the verdict sheet.

SAMPLE CALCULATION WORKSHEET

1. Amount of money legally necessary from all sources: \$_____

[this total amount then should be broken down into the following categories]:

(a) Current operating expenses: \$

(b) Capital outlay: \$

2. Amount of money legally necessary from the Board of County Commissioners: \$

[this total amount then should be broken down into the following categories]:

- (a) Current operating expenses: \$
- (b) Capital outlay: \$

3. Amount of money has been appropriated by the Board of County Commissioners for *(name county)* public schools: \$

[this total amount then should be broken down into the following categories]:

- (a) Current operating expenses: \$
- (b) Capital outlay: \$

4. Additional amount of money beyond the amount already appropriated by the Board of County Commissioners that is legally necessary from the Board of County Commissioners, subtract the total in (3) from the total in

(2) = \$.

[this total amount then should be broken down into the following categories]:

- (a) Current operating expenses: \$
- (b) Capital outlay: \$

Verdict Sheet found in attached PDF.

To access a print-only version of the attachment, do the following:

1. open the instruction from the electronic Table of Contents.
2. click on the Instruction References Tab at the top of the right

border.

3. after the Instruction References menu opens to the left of the tab, double-click on the Verdict Sheet attachment.
4. print the attachment by clicking on the printer icon.

In order to access a version of the attachment that can be edited, do the following:

1. locate the instruction title number in the electronic Table of Contents.
2. double-click on the Verdict Sheet that appears below the instruction title number.
3. save as an .rtf document by clicking on the save icon.
4. edit the .rtf document as required by the circumstances of your case.
5. save your changes before exiting the document.

1 There also is a sample calculation worksheet at the end of this Instruction that may be used if the trial judge believes it will assist the jury.

2 Merriam-Webster Dictionary. *See also* N.C. Gen. Stat. § 115C-431(c).

3 *See* N.C. Gen. Stat. § 115C-426(f). *See generally* *Beaufort Cnty. Bd. of Educ. v. Beaufort Cnty. Bd. of Comm'rs*, 363 N.C. 500, 510, 681 S.E.2d 278, 285 (2009) (Newby, J. concurring) (describing generally capital outlay fund and current operating expenses).

4 *See* <http://sbepolicy.dpi.state.nc.us/MasterList.asp> (link to State Board of Education Policy Manual).

5 *NOTE WELL: The parties will need to submit evidence establishing what are the educational goals and policies of the local Board of Education.*

6 *Beaufort*, 363 N.C. at 507, 681 S.E.2d at 283; N.C. Gen. Stat. § 115C-431(c) (S.L. 2013-141).

7 N.C. Gen. Stat. § 115C-408(b).

8 N.C. Gen. Stat. § 115C-408(a).

9 N.C. Gen. Stat. § 115C-408(b).

10 N.C. Gen. Stat. § 115C-47(1).

11 N.C. Gen. Stat. § 115C-521(b), § 115C-522(c).

12 *Beaufort*, 363 N.C. at 507, 681 S.E.2d at 283 (citing N.C. Gen. Stat. § 115C-426(e)).

13 *Leandro v. State*, 346 N.C. 336, 346, 488 S.E.2d 249, 254 (1997) (quoting *Board of Educ. v. Board of Comm'rs of Granville Cnty.*, 174 N.C. 469, 472, 93 S.E. 1001, 1002 (1917)).

14 *Id.* at 347, 488 S.E.2d at 254-55. See *Union County Bd. of Educ. v. Union Cnty. Bd. of Comm'rs*, ___ N.C. App. ___, ___, 771 S.E.2d 590, 601 (2015).

15 *Id.* at 247, 488 S.E.2d at 255.

16 N.C. Const. art. IX, § 2(1)

17 *Id.* at § 2(2).

18 *Id.* at § 6.

19 N.C. Gen. Stat. § 115C-524(b).

20 *Rowan Cnty. Bd. of Educ. v. U.S. Gypsum*, 332 N.C. 1, 11, 418 S.E.2d 648, 655 (1992) (quoting N.C. Gen. Stat. § 115C-44(a)).

21 *Id.*